



Memorandum

TO: COMMUNITY & ECONOMIC
DEVELOPMENT COMMITTEE

FROM: JOSEPH HORWEDEL

SUBJECT: SEE BELOW

DATE: September 9, 2010

Approved

Date

9/14/10

COUNCIL DISTRICT: City-Wide
SNI AREA: All

**SUBJECT: SANTA CLARA VALLEY HABITAT CONSERVATION PLAN - STATUS
REPORT**

RECOMMENDATION

Staff recommends that the Committee accept the status report regarding consideration of the draft Santa Clara Valley Habitat Plan (Plan or SCVHP).

OUTCOME

Comments and direction from the Community and Economic Development Committee and the City Council on the outstanding policy issues will allow staff and consultants to continue with the preparation of the draft Santa Clara Valley Habitat Plan.

BACKGROUND

A previous status report and presentation was provided to the CED Committee on June 28, 2010 with subsequent Council discussion on August 17, 2010. Council directed staff to refer plan implementation actions to the appropriate Council Committee. The primary focus of Council discussion was regarding the proposed conservation strategy for Western Burrowing Owls.

The Santa Clara Valley Habitat Plan program website is www.scv-habitatplan.org.

ANALYSIS

The preparation of the draft SCVHP continues to remain on schedule for formal public distribution in mid-November. Forward progress continues to be made toward resolution of the two outstanding issues of most relevance to the City, the Western Burrowing Owl conservation strategy and development impact fees.

The latest version of the Western Burrowing Owl (WBO) conservation strategy is based on the potential use of existing public lands in accordance with the City's guiding principles as accepted by the Council in August. The WBO conservation area focus has been expanded to include the entire South Bay region in addition to the Habitat Plan study area, particularly around the southern margin of the San Francisco Bay. This geographic expansion captures other important existing nesting sites, such as Mission College and Moffett Airfield. The conservation strategy will attempt to stabilize the existing colonies, increase the WBO population and number of colonies within the existing occupied area and in the long term attempt to extend the WBO range beyond the existing localized area.

The SCVHP divides WBO habitat into three categories, occupied nesting habitat (including essential foraging habitat), potential nesting habitat and overwintering habitat. A burrowing owl conservation fee will be paid by the project applicant if a covered activity impacts occupied nesting habitat. Under certain circumstances an additional burrowing owl habitat viability fee may be assessed if essential foraging habitat is reduced. Revenue generated by these fees will be used specifically to complete conservation actions specifically for WBO. The Wildlife Agency response to this approach is encouraging for probable retention of the WBO in the SCVHP as a covered species.

At their August 18, 2010 meeting, the Elected Officials Liaison Group concurred with the Local Partners' Management Team and Attorneys' recommendation for the SCVHP to include three fees in addition to the base per acre development and aquatic mitigation impact fees. These include a cost recovery fee for plan preparation costs, an endowment fee for management of the reserve lands in perpetuity and a fee for direct impacts to serpentine land cover types. The fee for indirect nitrogen deposition impacts continues to be refined and requires further outreach and dialogue with the development community which will occur over the next month. Staff will work with the Chamber of Commerce, HBA, and others to keep them informed about the details of the proposed fee structure.

POLICY ALTERNATIVES

Not applicable.

PUBLIC OUTREACH/INTEREST

- ☐ **Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- ☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- ☐ **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, the Habitat Plan's public outreach program has been thorough. In addition to monthly Stakeholder Group and bi-monthly Liaison

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Group meetings, several public meetings have been held since initiation of the Plan. Additional extensive outreach will be undertaken in conjunction with the public circulation of the Draft Habitat Plan and the accompanying EIR/EIS. Future opportunities for community involvement will be posted at www.scv-habitatplan.org.

COORDINATION

The preparation of the Santa Clara Valley Habitat Plan is being coordinated with the Departments of Environmental Services, Parks, Recreation and Neighborhood Services, Public Works, Airport, and Transportation, City Attorney, County of Santa Clara, Santa Clara Valley Transportation Authority, Santa Clara Valley Water District, the cities of Morgan Hill and Gilroy, USFWS, NMFS, and CDFG. This memorandum was coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The Valley Habitat Plan is consistent with applicable San Jose 2020 General Plan policies, particularly the Greenline/Urban Growth Boundary Major Strategy and the Natural Resources goals and policies.

COST SUMMARY/IMPLICATIONS

Not applicable.

CEQA

This status report is not a project under CEQA. An Environmental Impact Report/Environmental Impact Statement is being prepared for the Habitat Plan and will be publicly circulated in conjunction with public review of the Draft Habitat Plan.

/s/

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact Darryl Boyd, Principal Planner, at 408-535-7898.